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1 A bill to be entitled

2 An act relating to juvenile justice; amending s. 985.207,
3 F.S.; permitting a law enforcement officer to take a child
4 into custody for a violation of adjudication order
5 conditions; amending s. 985.215, F.S.; permitting
6 specified types of postadjudication detention for a child
7 who has previously failed to appear at delinquency court
8 proceedings regardless of risk assessment instrument
9 results; providing exceptions that permit postadjudication
10 detention until the child's disposition order is entered
11 in his or her case; conforming cross-references; amending
12 s. 985.2155, F.S.; revising the definition of the term
13 "fiscally constrained county" for purposes of determining
14 state payment of costs of juvenile detention care;
15 amending s. 985.228, F.S.; requiring the court to include
16 specified conditions in a child's order of adjudication of
17 delinquency that apply during the postadjudication and
18 predisposition period; providing a definition; permitting
19 a court to find a child in contempt of court for a
20 violation of adjudication order conditions; providing
21 sanctions; amending s. 985.231, F.S.; conforming cross-
22 references; amending s. 985.308, F.S.; providing for
23 evaluations of juvenile sexual offender programs;
24 conforming cross-references; repealing s. 985.309, F.S.,
25 relating to boot camps for children; creating s. 985.3091,
26 F.S.; authorizing the department to contract for sheriff's
27 training and respect programs; providing eligibility
28 requirements for children placed in the programs;
29 specifying required program offerings; specifying program

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30 participation time frames; requiring the department to
31 adopt rules and maintain specified records; providing for
32 quarterly evaluations of and contract cancellation under
33 specified circumstances; specifying staff training
34 requirements; requiring the department to adopt training
35 rules; prohibiting the provision of direct care to
36 children by staff who have not complied with training
37 requirements; prohibiting the operation of a program until
38 department rules are adopted and the department has
39 verified program compliance with applicable law and rules;
40 authorizing emergency rules to expedite implementation;
41 amending s. 985.311, F.S.; requiring the establishment of
42 minimum thresholds for evaluations; conforming cross-
43 references; amending s. 985.404, F.S.; providing for the
44 inclusion of evaluations in department contract
45 cooperative agreements; conforming cross-references;
46 creating s. 985.4055, F.S.; providing definitions;
47 requiring the department to adopt rules establishing a
48 protective action response policy; specifying when verbal
49 and physical intervention techniques may be used;
50 specifying prohibited uses of mechanical restraints;
51 prohibiting use of aerosol and chemical agents; requiring
52 the department to adopt rules establishing protection
53 action response training curriculums and certification
54 procedures; requiring department and provider employees to
55 be certified in protective action response prior to
56 exercising direct care; creating s. 985.4056, F.S.;
57 creating the Juvenile Justice Accountability Commission;
58 providing for membership; providing definitions; providing

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for meetings and voting requirements; providing for an executive director and staff; providing for commission's budget; providing for reimbursement of per diem and travel expenses; requiring the commission to contract for a comprehensive evaluation and accountability system for juvenile justice programs; providing requirements for the system; requiring a report by the system provider; specifying commission duties; requiring a report by the commission; providing for termination of juvenile justice programs in specified circumstances; requiring the commission to adopt rules; amending s. 985.412, F.S.; deleting department's authority to establish a comprehensive quality assurance system; providing conforming changes; deleting obsolete provisions relating to incentive and disincentive proposals and liquidated damages; amending ss. 958.04, 958.046, 985.31, 985.314, and 985.315, F.S.; conforming cross-references and terminology; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (e) is added to subsection (1) of section 985.207, Florida Statutes, to read:

985.207 Taking a child into custody.--

(1) A child may be taken into custody under the following circumstances:

(e) When a law enforcement officer has probable cause to believe that a child who is awaiting disposition has violated

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87 conditions imposed by the court under s. 985.228(5) in his or her
88 order of adjudication of delinquency.

89
90 Nothing in this subsection shall be construed to allow the
91 detention of a child who does not meet the detention criteria in
92 s. 985.215.

93 Section 2. Subsection (2) and paragraphs (d) and (g) of
94 subsection (5) of section 985.215, Florida Statutes, are amended
95 to read:

96 985.215 Detention.--

97 (2) Subject to the provisions of subsection (1), a child
98 taken into custody and placed into nonsecure or home detention
99 care or detained in secure detention care prior to a detention
100 hearing may continue to be detained by the court if:

101 (a) The child is alleged to be an escapee from a
102 residential commitment program, or an absconder from a
103 nonresidential commitment program, a probation program, or
104 conditional release supervision, or is alleged to have escaped
105 while being lawfully transported to or from a residential
106 commitment program.

107 (b) The child is wanted in another jurisdiction for an
108 offense which, if committed by an adult, would be a felony.

109 (c) The child is charged with a delinquent act or violation
110 of law and requests in writing through legal counsel to be
111 detained for protection from an imminent physical threat to his
112 or her personal safety.

113 (d) The child is charged with committing an offense of
114 domestic violence as defined in s. 741.28 and is detained as
115 provided in s. 985.213(2)(b)3.

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116 (e) The child is charged with possession or discharging a
117 firearm on school property in violation of s. 790.115.

118 (f) The child is charged with a capital felony, a life
119 felony, a felony of the first degree, a felony of the second
120 degree that does not involve a violation of chapter 893, or a
121 felony of the third degree that is also a crime of violence,
122 including any such offense involving the use or possession of a
123 firearm.

124 (g) The child is charged with any second degree or third
125 degree felony involving a violation of chapter 893 or any third
126 degree felony that is not also a crime of violence, and the
127 child:

128 1. Has a record of failure to appear at court hearings
129 after being properly notified in accordance with the Rules of
130 Juvenile Procedure;

131 2. Has a record of law violations prior to court hearings;

132 3. Has already been detained or has been released and is
133 awaiting final disposition of the case;

134 4. Has a record of violent conduct resulting in physical
135 injury to others; or

136 5. Is found to have been in possession of a firearm.

137 (h) The child is alleged to have violated the conditions of
138 the child's probation or conditional release supervision.

139 However, a child detained under this paragraph may be held only
140 in a consequence unit as provided in s. 985.231(1)(a)1.c. If a
141 consequence unit is not available, the child shall be placed on
142 home detention with electronic monitoring.

143 (i) The child is detained on a judicial order for failure
144 to appear and has previously willfully failed to appear, after

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proper notice, for an adjudicatory hearing on the same case regardless of the results of the risk assessment instrument. A child may be held in secure detention for up to 72 hours in advance of the next scheduled court hearing pursuant to this paragraph. The child's failure to keep the clerk of court and defense counsel informed of a current and valid mailing address where the child will receive notice to appear at court proceedings does not provide an adequate ground for excusal of the child's nonappearance at the hearings.

(j) The child is detained on a judicial order for failure to appear and has previously willfully failed to appear, after proper notice, at two or more court hearings of any nature on the same case regardless of the results of the risk assessment instrument. A child may be held in secure detention for up to 72 hours in advance of the next scheduled court hearing pursuant to this paragraph. The child's failure to keep the clerk of court and defense counsel informed of a current and valid mailing address where the child will receive notice to appear at court proceedings does not provide an adequate ground for excusal of the child's nonappearance at the hearings.

(k) At his or her adjudicatory hearing, the child has been found to have committed a delinquent act or violation of law and has previously willfully failed to appear, after proper notice, for other delinquency court proceedings of any nature regardless of the results of the risk assessment instrument. A child may be held in secure detention or, at the discretion of the court and if available, placed on home detention with electronic monitoring until the child's disposition order is entered in his or her case. The child's failure to keep the clerk of court and defense

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174 counsel informed of a current and valid mailing address where the
175 child will receive notice to appear at court proceedings does not
176 provide an adequate ground for excusal of the child's
177 nonappearance at the hearings.

178
179 A child who meets any of these criteria and who is ordered to be
180 detained pursuant to this subsection shall be given a hearing
181 within 24 hours after being taken into custody. The purpose of
182 the detention hearing is to determine the existence of probable
183 cause that the child has committed the delinquent act or
184 violation of law with which he or she is charged and the need for
185 continued detention, except where the child is alleged to have
186 absconded from a nonresidential commitment program in which case
187 the court, at the detention hearing, shall order that the child
188 be released from detention and returned to his or her
189 nonresidential commitment program. Unless a child is detained
190 under paragraph (d), ~~or~~ paragraph (e), or paragraph (k), the
191 court shall use the results of the risk assessment performed by
192 the juvenile probation officer and, based on the criteria in this
193 subsection, shall determine the need for continued detention. A
194 child placed into secure, nonsecure, or home detention care may
195 continue to be so detained by the court pursuant to this
196 subsection. If the court orders a placement more restrictive than
197 indicated by the results of the risk assessment instrument, the
198 court shall state, in writing, clear and convincing reasons for
199 such placement. Except as provided in s. 790.22(8) or in
200 subparagraph (10)(a)2., paragraph (10)(b), paragraph (10)(c), or
201 paragraph (10)(d), when a child is placed into secure or
202 nonsecure detention care, or into a respite home or other

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203 placement pursuant to a court order following a hearing, the
204 court order must include specific instructions that direct the
205 release of the child from such placement no later than 5 p.m. on
206 the last day of the detention period specified in paragraph
207 (5)(b) or paragraph (5)(c), or subparagraph (10)(a)1., whichever
208 is applicable, unless the requirements of such applicable
209 provision have been met or an order of continuance has been
210 granted pursuant to paragraph (5)(f).

211 (5)

212 (d) Except as provided in paragraph (2)(k), paragraph (g),
213 or s. 985.228(5), a child may not be held in secure, nonsecure,
214 or home detention care for more than 15 days following the entry
215 of an order of adjudication.

216 (g) Upon good cause being shown that the nature of the
217 charge requires additional time for the prosecution or defense of
218 the case, the court may extend the time limits for detention
219 specified in paragraph (c) or paragraph (d) an additional 9 days
220 if the child is charged with an offense that would be, if
221 committed by an adult, a capital felony, a life felony, a felony
222 of the first degree, or a felony of the second degree involving
223 violence against any individual.

224 Section 3. Paragraph (b) of subsection (2) of section
225 985.2155, Florida Statutes, is amended to read:

226 985.2155 Shared county and state responsibility for
227 juvenile detention.--

228 (2) As used in this section, the term:

229 (b) "Fiscally constrained county" means a county ~~designated~~
230 ~~as a rural area of critical economic concern under s. 288.0656~~
231 for which the value of a mill in the county is no more than \$4 ~~\$3~~

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million, based on the property valuations and tax data annually published by the Department of Revenue under s. 195.052.

Section 4. Subsection (5) of section 985.228, Florida Statutes, is amended to read:

985.228 Adjudicatory hearings; withheld adjudications; orders of adjudication.--

(5)(a) If the court finds that the child named in a petition has committed a delinquent act or violation of law, but elects not to proceed under subsection (4), it shall incorporate that finding in an order of adjudication of delinquency entered in the case, briefly stating the facts upon which the finding is made, and the court shall thereafter have full authority under this chapter to deal with the child as adjudicated.

(b) The order of adjudication of delinquency under paragraph (a) shall also include conditions that must be followed by the child until a disposition order is entered in his or her case. These conditions must include, but are not limited to, specifying that the child, during any period of time that he or she:

1. Is not in secure detention, must comply with a curfew; must attend school or another educational program, if eligible; and is prohibited from engaging in ungovernable behavior.

2. Is in secure detention, is prohibited from engaging in ungovernable behavior.

(c) For purposes of this subsection, the term "ungovernable behavior" means:

1. The child's failing to obey the reasonable and lawful demands of the child's parent or legal guardian and, where applicable, the reasonable and lawful demands of a person

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261 responsible for supervising the child while he or she is in
262 school, another educational program, or secure detention.

263 2. The child engaging in behavior that evidences a risk
264 that the child may fail to appear for future court proceedings or
265 may inflict harm upon others or the property of others.

266 3. Other behavior of the child as specified in writing by
267 the court in the order of adjudication of delinquency.

268 (d) If a child willfully violates a condition contained in
269 his or her order of adjudication of delinquency, the court may
270 find the child in direct or indirect contempt of court under s.
271 985.216; however, notwithstanding s. 985.216 and the results of
272 the risk assessment instrument, the child's sanctions for such
273 contempt of court shall be placement in secure detention or, at
274 the discretion of the court and if available, on home detention
275 with electronic monitoring until the child's disposition order is
276 entered in his or her case.

277 Section 5. Paragraph (j) of subsection (1) of section
278 985.231, Florida Statutes, is amended to read:

279 985.231 Powers of disposition in delinquency cases.--

280 (1)

281 (j) If the offense committed by the child was grand theft
282 of a motor vehicle, the court:

283 1. Upon a first adjudication for a grand theft of a motor
284 vehicle, may place the child ~~youth~~ in a sheriff's training and
285 respect program ~~boot camp~~, unless the child is ineligible under
286 s. 985.3091 ~~pursuant to s. 985.309~~, and shall order the child
287 ~~youth~~ to complete a minimum of 50 hours of community service.

288 2. Upon a second adjudication for grand theft of a motor
289 vehicle which is separate and unrelated to the previous

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290 adjudication, may place the child youth in a sheriff's training
291 and respect program ~~boot camp~~, unless the child is ineligible
292 under s. 985.3091 ~~pursuant to s. 985.309~~, and shall order the
293 child youth to complete a minimum of 100 hours of community
294 service.

295 3. Upon a third adjudication for grand theft of a motor
296 vehicle which is separate and unrelated to the previous
297 adjudications, shall place the child youth in a sheriff's
298 training and respect program ~~boot camp~~ or other treatment
299 program, unless the child is ineligible under s. 985.3091
300 ~~pursuant to s. 985.309~~, and shall order the child youth to
301 complete a minimum of 250 hours of community service.

302 Section 6. Subsection (9) of section 985.308, Florida
303 Statutes, is amended to read:

304 985.308 Juvenile sexual offender commitment programs;
305 sexual abuse intervention networks.--

306 (9) Evaluations under s. 985.4056(5)(a) of ~~The department~~
307 ~~shall conduct inspections of and quality assurance activities for~~
308 ~~each juvenile sexual offender program operated by or under~~
309 ~~contract with the department,~~ shall be conducted based on
310 standards specifically developed for these types of programs, ~~to~~
311 ~~determine whether the program complies with department rules for~~
312 ~~continued operation of the program.~~

313 Section 7. Section 985.309, Florida Statutes, is repealed.

314 Section 8. Section 985.3091, Florida Statutes, is created
315 to read:

316 985.3091 Sheriff's training and respect programs.--

317 (1) Contingent upon specific appropriation, local funding,
318 or specific appropriation and local funding, a county sheriff

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319 may, under contract with the department, implement and operate a
320 sheriff's training and respect program to provide intensive
321 educational, work, and physical training and rehabilitation for
322 children who are eligible under subsection (2). A sheriff's
323 training and respect program shall be under the sheriff's
324 supervisory jurisdiction and authority as determined by the
325 contract between the department and the sheriff.

326 (2) A child is eligible for placement in a sheriff's
327 training and respect program if he or she:

328 (a) Is at least 14 years of age but less than 18 years of
329 age at the time of adjudication.

330 (b) Has been committed to the department for any offense
331 that, if committed by an adult, would be a felony other than a
332 capital felony, a life felony, or a violent felony of the first
333 degree.

334 (c) Has a medical, psychological, and substance abuse
335 profile that is conducive to successful completion of the
336 program, as determined by preadmission medical, psychological,
337 and substance abuse screenings conducted by the sheriff.

338 (d) Will be placed in the judicial circuit in which the
339 child was adjudicated, except that the child may be placed
340 outside of that judicial circuit if:

341 1. The department, or the court if otherwise authorized by
342 law to select a commitment program within a restrictiveness level
343 for a child, determines that placement within the judicial
344 circuit would not be in the child's best interest or the
345 sheriff's training and respect program is unable to accept the
346 child; and

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347 2. The child's parent or guardian agrees in writing to the
348 placement.

349 (3) A sheriff's training and respect program shall require
350 children to:

351 (a) Participate in physical training exercises.

352 (b) Complete educational, vocational, and substance abuse
353 programs.

354 (c) Receive training in life and job skills and in
355 techniques for appropriate decisionmaking.

356 (d) Receive counseling that is directed at replacing
357 criminal thinking, beliefs, and values with moral thinking,
358 beliefs, and values.

359 (4) A sheriff's training and respect program must provide a
360 residential component and conditional release assessment and
361 services in accordance with s. 985.316. The minimum period of
362 participation in the residential component of:

363 (a) A low-risk residential program is 2 months.

364 (b) A moderate-risk residential program is 4 months.

365
366 This subsection does not prohibit operation of a program that
367 requires the participants to spend more than 4 months in the
368 residential component of the program or that requires the
369 participants to complete two sequential programs of 4 months each
370 in the residential component of the program.

371 (5) The department shall adopt rules under ss. 120.536(1)
372 and 120.54 for the sheriff's training and respect program that
373 specify:

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374 (a) Requirements for the preadmission medical,
375 psychological, and substance abuse screenings required by
376 subsection (2).

377 (b) Authorized disciplinary sanctions and restrictions on
378 the privileges of the general population of children in the
379 program. The rules must prohibit the use of physical force or
380 restraint except as authorized in rules adopted pursuant to s.
381 985.4055 and must specifically preclude the use of physical force
382 or restraint as a disciplinary sanction or to encourage
383 compliance with program requirements.

384 (c) Prohibitions on the use of psychological intimidation
385 techniques, unless necessary for the safety of youth or other
386 persons or to maintain security.

387 (d) Requirements for provision of notice by the program to
388 the department and for the removal of a child from the program if
389 the child becomes unmanageable or ineligible for the program due
390 to changes in his or her medical, psychological, or substance
391 abuse profile.

392 (e) Requirements for the prominent display of the telephone
393 number of the statewide abuse registry and for immediate access
394 by children in the program, upon request, to a telephone for the
395 purpose of contacting the abuse registry.

396 (6)(a) Evaluations under s. 985.4056 of each sheriff's
397 training and respect program shall be conducted quarterly. If a
398 sheriff's training and respect program fails to meet the minimum
399 thresholds for program continuation, the department shall cancel
400 the contract for the program:

401 1. Immediately if the program has a deficiency in a
402 critical life safety aspect of its operations, as defined in a

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rule adopted under s. 985.4056, or has failed to train and certify its employees as required in s. 985.4055.

2. If the program fails to achieve compliance with the minimum thresholds for program continuation within 3 months, unless there are documented extenuating circumstances, as defined in a rule adopted under s. 985.4056.

(b) Upon cancellation of a contract under paragraph (a), the program's operations shall immediately cease and the department shall immediately discontinue any state payments to the program.

(7) The department shall keep records and monitor criminal activity, educational progress, and employment placement of all sheriff's training and respect program participants after their release from the program. The department must annually publish an outcome evaluation study of each sheriff's training and respect program.

(8)(a) The department shall adopt rules under ss. 120.536(1) and 120.54 that establish training requirements for staff in a sheriff's training and respect program. These requirements shall, at a minimum, require administrative staff to successfully complete 120 contact hours of department-approved training and staff who provide direct care, as defined in s. 985.4055, to successfully complete 200 contact hours of department-approved training.

(b) Department-approved training must include, but is not limited to, training on:

1. State and federal laws relating to child abuse.

2. Authorized disciplinary sanctions, privilege restrictions, and limitations on use of physical force and

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432 restraint techniques under paragraph (5)(b) and prohibited
433 psychological intimidation techniques under paragraph (5)(c).

434 3. Appropriate counseling techniques and aggression control
435 methods.

436 4. Appropriate methods for dealing with children who have
437 been placed in programs that emphasize physical fitness and
438 personal discipline, including training on the identification of,
439 and appropriate responses to, children who are experiencing
440 physical or mental distress.

441 5. Cardiopulmonary resuscitation, choke-relief, and other
442 emergency medical procedures.

443 (c) All department-approved training courses under this
444 subsection must be taught by persons who are certified as
445 instructors by the Division of Criminal Justice Standards and
446 Training of the Department of Law Enforcement and who have prior
447 experience in a juvenile program. A training course in counseling
448 techniques need not be taught by a certified instructor but must
449 be taught by a person who has at least a bachelor's degree in
450 social work, counseling, psychology, or a related field.

451 (d) A person may not provide direct care, as defined in s.
452 985.4055, to a child in a sheriff's training and respect program
453 until he or she has successfully completed the training
454 requirements under this subsection and the certification
455 requirements under s. 985.4055.

456 (9) Children shall not be admitted to a sheriff's training
457 and respect program until the department has adopted the rules
458 required by this section and has verified that each program is in
459 compliance with all laws and rules applicable to the program. The
460 department may adopt emergency rules pursuant to s. 120.54(4) if

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461 necessary to allow operation of sheriff's training and respect
462 programs beginning July 1, 2006.

463 Section 9. Paragraph (e) of subsection (2) and paragraph
464 (i) of subsection (3) of section 985.311, Florida Statutes, are
465 amended to read:

466 985.311 Intensive residential treatment program for
467 offenders less than 13 years of age.--

468 (2) INTENSIVE RESIDENTIAL TREATMENT PROGRAM FOR OFFENDERS
469 LESS THAN 13 YEARS OF AGE.--

470 (e) Minimum thresholds ~~The department shall be established~~
471 under s. 985.4056(5)(a) establish quality assurance standards to
472 ensure the quality and substance of mental health services
473 provided to children with mental, nervous, or emotional disorders
474 who may be committed to intensive residential treatment programs.
475 The minimum thresholds ~~quality assurance standards~~ shall address
476 the possession of credentials by the mental health service
477 providers.

478 (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND
479 TREATMENT.--

480 (i) The treatment and placement recommendations shall be
481 submitted to the court for further action pursuant to this
482 paragraph:

483 1. If it is recommended that placement in an intensive
484 residential treatment program for offenders less than 13 years of
485 age is inappropriate, the court shall make an alternative
486 disposition pursuant to s. 985.3091 ~~985.309~~ or other alternative
487 sentencing as applicable, utilizing the recommendation as a
488 guide.

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2. If it is recommended that placement in an intensive residential treatment program for offenders less than 13 years of age is appropriate, the court may commit the child to the department for placement in the restrictiveness level designated for intensive residential treatment program for offenders less than 13 years of age.

Section 10. Paragraph (d) of subsection (10) of section 985.404, Florida Statutes, is amended to read:

985.404 Administering the juvenile justice continuum.--

(10)

(d) Each programmatic, residential, and service contract or agreement entered into by the department must include a cooperation clause for purposes of complying with the evaluation requirements under s. 985.4056(5)(a) and the department's ~~quality assurance requirements~~, cost-accounting ~~requirements~~, and the program outcome evaluation requirements.

Section 11. Section 985.4055, Florida Statutes, is created to read:

985.4055 Protective action response.--

(1) For purposes of this section, the term:

(a) "Direct care" means the care, supervision, custody, or control of youth in any facility, service, or program that is operated by the department or by a provider under contract with the department.

(b) "Employee" means any person who exercises direct care.

(c) "Protective Action Response policy" means the policy governing the use of verbal and physical intervention techniques, mechanical restraints, and aerosol and chemical agents by employees.

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518 (2) The department shall adopt rules under ss. 120.536(1)
519 and 120.54 that:

520 (a) Establish a Protective Action Response policy that:

521 1. Defines the authorized level of response by an employee
522 to each level of verbal or physical resistance by a youth.

523 2. Requires the use of verbal intervention techniques as
524 the initial response by an employee to verbal or physical
525 resistance by a youth, except where physical intervention
526 techniques are necessary to prevent:

527 a. Physical harm to the youth, employee, or another person;

528 b. Property damage; or

529 b. The youth from escaping or absconding from lawful
530 supervision.

531 3. Defines authorized physical intervention techniques and
532 the situations under which employees may use these techniques for
533 youth. Pain compliance techniques and other use of force less
534 than lethal force shall be prohibited, except where necessary to
535 prevent:

536 a. Physical harm to the youth, employee, or another person;

537 b. Property damage; or

538 c. The youth from escaping or absconding from lawful
539 supervision.

540
541 Lethal force shall be prohibited, except where necessary to
542 protect the employee or another person from an imminent threat of
543 great bodily harm or death. Prior authorization by an employee's
544 supervisor for the use of physical intervention techniques shall
545 be obtained when practical.

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546 4. Defines authorized use of mechanical restraints and the
547 situations under which employees may use such restraints on
548 youth. Prohibited uses of mechanical restraints shall include the
549 use of neck restraints and the securing of a youth to a fixed
550 object. Supervision requirements for youth who are secured in
551 mechanical restraints shall include constant and direct visual
552 monitoring by an employee for purposes of insuring youth safety
553 and ascertaining indications by the youth that restraints are no
554 longer necessary. Prior authorization by an employee's supervisor
555 for the use of mechanical restraints shall be obtained when
556 practical.

557 5. Prohibits employee use of aerosol or chemical agents,
558 including, but not limited to, oleoresin capsicum spray and
559 ammonia capsules, on a youth unless required for medical
560 treatment of the youth by a licensed medical professional.

561 (b) Establish training curriculums for protective action
562 response certification of employees and instructors. The training
563 curriculum for employee certification shall, at a minimum,
564 require the employee to obtain a passing score:

565 1. On a written examination that tests the employee's
566 knowledge and understanding of the protective action response
567 policy.

568 2. During an evaluation by an instructor of the employee's
569 physically demonstrated ability to implement the protective
570 action response policy.

571 (c) Require training curriculums for protective action
572 response certification of employees to be taught by instructors
573 who have been certified under the training curriculum for
574 protective action response certification of instructors.

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575 (d) Require each employee to have received his or her
576 protective action response certification prior to exercising
577 direct care.

578 Section 12. Section 985.4056, Florida Statutes, is created
579 to read:

580 985.4056 Juvenile Justice Accountability Commission.--

581 (1) CREATION; MEMBERSHIP.--

582 (a) The Juvenile Justice Accountability Commission is
583 created and administratively housed within the department. The
584 commission shall be composed of seven members appointed by the
585 Governor. Each member of the commission must have direct
586 experience in juvenile justice issues and must be a citizen of
587 and registered voter in this state. The composition of the
588 commission must equitably represent all geographic areas of the
589 state and include minorities and women.

590 (b) Within the 2-year period preceding his or her
591 appointment, a member of the commission may not have been, and
592 during the 2-year period following termination of his or her
593 appointment, a member of the commission may not be:

594 1. An employee of, a consultant to, or a provider under
595 contract with the department.

596 2. A contractor, or an employee or a consultant thereof,
597 who submits a bid, proposal, or reply in response to a
598 competitive solicitation issued by the commission.

599 (c) Each member of the commission shall serve a term of 4
600 years; however, for the purpose of providing staggered terms, of
601 the initial appointments, three members shall serve 2-year terms
602 and four members shall serve 4-year terms. Any vacancy on the
603 commission shall be filled in the same manner as the original

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604 appointment within 60 days after the date upon which the vacancy
605 occurred, and any member appointed to fill a vacancy shall serve
606 only for the unexpired term of the member's predecessor. The
607 chairperson of the commission shall be selected by the members
608 for a term of 1 year.

609 (2) DEFINITIONS.--For purposes of this section, the term:

610 (a) "Juvenile justice program" means any facility, service,
611 or program that is operated by the department or by a provider
612 under contract with the department.

613 (b) "Minorities" means a member of a socially or
614 economically disadvantaged group and includes African Americans,
615 Hispanics, and American Indians.

616 (3) MEETINGS.--

617 (a) The commission shall hold a minimum of four regular
618 meetings annually, and other meetings may be called by the chair
619 upon giving at least 7 days' notice to all members and the public
620 pursuant to chapter 120. Meetings may also be held upon the
621 written request of at least four members, upon at least 7 days'
622 notice of such meeting being given to all members and the public
623 by the chair pursuant to chapter 120. Emergency meetings may be
624 held without notice upon the request of all members. The meetings
625 of the commission shall be held in the central office of the
626 department in Tallahassee unless the chair determines that
627 special circumstances warrant meeting at another location.

628 (b) A majority of the membership of the commission
629 constitutes a quorum and a quorum is required for any meeting of
630 the commission during which action will be voted upon. An action
631 of the commission is not binding unless the action is taken
632 pursuant to an affirmative vote of a majority of the members

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633 present and the vote must be recorded in the minutes of the
634 meeting.

635 (c) A member of the commission may not authorize a designee
636 to attend a meeting of the commission in his or her place. A
637 member who fails to attend two consecutive regularly scheduled
638 meetings of the commission, unless the member is excused by the
639 chairperson, shall be deemed to have abandoned the position, and
640 the position shall be declared vacant by the commission.

641 (d) The chairperson shall cause to be made a complete
642 record of the proceedings of the commission, which record shall
643 be open for public inspection.

644 (4) ORGANIZATION.--

645 (a) The commission, subject to appropriation, may employ an
646 executive director and other staff, and may retain consultants,
647 as necessary. No person employed or retained by the commission
648 under this paragraph may have served in a position under
649 paragraph (1)(b) within the 2-year period preceding his or her
650 employment or retention, nor may such person serve in a position
651 under paragraph (1)(b) within the 2-year period following his or
652 her termination from the commission.

653 (b) The commission shall be a separate budget entity, and
654 the executive director shall be the chief administrative officer.
655 The department shall provide administrative support and service
656 to the commission to the extent requested by the executive
657 director. The commission and its staff are not subject to the
658 control, supervision, or direction of the department.

659 (c) The commission shall develop a budget pursuant to
660 chapter 216. The budget is not subject to change by the

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661 department and shall be submitted to the Governor and Legislature
662 as provided in s. 216.023.

663 (d) Members of the commission shall serve without
664 compensation, but are entitled to reimbursement for per diem and
665 travel expenses under s. 112.061.

666 (5) DUTIES.--The commission shall:

667 (a) On or before October, 1, 2006 and subject to
668 appropriation, enter into a contract under chapter 287 for the
669 development and implementation of a comprehensive evaluation and
670 accountability system for each juvenile justice program. The
671 contract for the system must require the provider to:

672 1. Develop a standardized evaluation protocol based upon
673 best practices for juvenile justice programs that includes
674 minimum thresholds for program continuation and that identifies
675 program effectiveness and areas in need of expansion,
676 improvement, modification or elimination.

677 2. Continually review best practices literature and update
678 the standardized evaluation protocol based upon that review.

679 3. Conduct annual or more frequent evaluations of each
680 juvenile justice program, except that evaluations of sheriff's
681 training and respect programs under s. 985.3091 shall be
682 conducted quarterly. The date and time of the evaluations shall
683 not be announced to the juvenile justice program.

684 4. Notify the chair of the commission and the secretary of
685 the department within 24 hours of a juvenile justice program's
686 failure to meet minimum thresholds for program continuation
687 during an evaluation.

688 5. Submit a report to the Governor, the appropriate
689 substantive and fiscal committees of the Legislature, and the

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690 secretary of the department on or before January 1st each year
691 that contains, at a minimum, for each juvenile justice program:

692 a. A comprehensive description of the population served by
693 the program.

694 b. A specific description of the services provided by the
695 program.

696 c. Program cost.

697 d. A comparison of expenditures to federal and state
698 funding.

699 e. Immediate and long-range program concerns.

700 f. Recommendations to maintain, expand, improve, modify, or
701 eliminate the program.

702 (b) Monitor the development and implementation of long-
703 range juvenile justice program policies, including prevention,
704 early intervention, diversion, adjudication, and commitment.

705 (c) Review and recommend programmatic and fiscal policies
706 governing the operation of juvenile justice programs.

707 (d) Serve as a clearinghouse, in coordination with the
708 department, to provide information and assistance to the juvenile
709 justice circuit boards and juvenile justice county councils.

710 (e) Advise the President of the Senate, the Speaker of the
711 House of Representatives, the Governor, and the department on
712 matters relating to this chapter.

713 (f) Conduct such other activities as the commission may
714 determine are necessary and appropriate to monitor the
715 effectiveness of the delivery of juvenile justice under this
716 chapter.

717 (g) Submit an annual report to the Governor, the
718 appropriate substantive and fiscal committees of the Legislature,

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and the secretary of the department no later than January 1st of each year that summarizes the meetings and activities of the commission during the preceding year and includes any recommendations of the commission for the following year.

(6) PROGRAM TERMINATION.--

(a) If a juvenile justice program operated by the department fails to meet minimum thresholds for program continuation during an evaluation under paragraph (5)(a), the program's operations shall be:

1. Immediately terminated if the program has a deficiency in a critical life safety aspect of its operations, as defined in commission rule, or if the department has failed to train and certify program employees as required in s. 985.4055.

2. Terminated if the department fails to achieve compliance with the minimum thresholds for program continuation within 6 months, unless there are documented extenuating circumstances as defined in commission rule.

(b) Each juvenile justice program contract entered into by the department must:

1. Provide for evaluations under paragraph (5)(a).

2. State that if a provider fails to meet the established minimum thresholds for program continuation that such failure shall cause the department to cancel the provider's contract:

a. Immediately if the provider has a deficiency in a critical life safety aspect of its operations, as defined in commission rule, or has failed to train and certify its employees as required in s. 985.4055.

b. If the provider fails to achieve compliance with the minimum thresholds for program continuation within 6 months,

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except as provided in s. 985.3091(6)(b), unless there are documented extenuating circumstances as defined in commission rule.

3. State that, upon cancellation of a contract under this paragraph, that the provider's operations shall immediately cease, that the department will immediately discontinue any state payments to the provider, and that the provider shall be ineligible to contract with the department for the cancelled service for a period of 12 months.

(7) RULEMAKING.--The commission shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section.

Section 13. Paragraphs (a) and (e) of subsection (4) and subsections (5), (6), and (7) of section 985.412, Florida Statutes, are amended to read:

985.412 Department data collection and reporting ~~Quality assurance and cost-effectiveness~~.--

(4)(a) The department ~~of Juvenile Justice~~, in consultation with the Office of Economic and Demographic Research, and contract service providers, shall develop a cost-effectiveness model and apply the model to each commitment program. Program recidivism rates shall be a component of the model. The cost-effectiveness model shall compare program costs to client outcomes and program outputs. It is the intent of the Legislature that continual development efforts take place to improve the validity and reliability of the cost-effectiveness model and to integrate the standard methodology developed under s. 985.401(4) for interpreting program outcome evaluations.

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776 (e) Contingent upon specific appropriation, the department,
777 in consultation with the Office of Economic and Demographic
778 Research, and contract service providers, shall:

779 1. Construct a profile of each commitment program that uses
780 ~~the results of the quality assurance report required by this~~
781 ~~section,~~ the cost-effectiveness report required in this
782 subsection, and other reports available to the department.

783 2. Target, for a more comprehensive evaluation, any
784 commitment program that has achieved consistently high, low, or
785 disparate ratings in the reports required under subparagraph 1.

786 3. Identify the essential factors that contribute to the
787 high, low, or disparate program ratings.

788 4. Use the results of these evaluations in developing or
789 refining juvenile justice programs or program models, client
790 outcomes and program outputs, provider contracts, ~~quality~~
791 ~~assurance standards,~~ and the cost-effectiveness model.

792 ~~(5) The department shall:~~

793 ~~(a) Establish a comprehensive quality assurance system for~~
794 ~~each program operated by the department or operated by a provider~~
795 ~~under contract with the department. Each contract entered into by~~
796 ~~the department must provide for quality assurance.~~

797 ~~(b) Provide operational definitions of and criteria for~~
798 ~~quality assurance for each specific program component.~~

799 ~~(c) Establish quality assurance goals and objectives for~~
800 ~~each specific program component.~~

801 ~~(d) Establish the information and specific data elements~~
802 ~~required for the quality assurance program.~~

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~~(e) Develop a quality assurance manual of specific, standardized terminology and procedures to be followed by each program.~~

~~(f) Evaluate each program operated by the department or a provider under a contract with the department and establish minimum thresholds for each program component. If a provider fails to meet the established minimum thresholds, such failure shall cause the department to cancel the provider's contract unless the provider achieves compliance with minimum thresholds within 6 months or unless there are documented extenuating circumstances. In addition, the department may not contract with the same provider for the canceled service for a period of 12 months. If a department-operated program fails to meet the established minimum thresholds, the department must take necessary and sufficient steps to ensure and document program changes to achieve compliance with the established minimum thresholds. If the department-operated program fails to achieve compliance with the established minimum thresholds within 6 months and if there are no documented extenuating circumstances, the department must notify the Executive Office of the Governor and the Legislature of the corrective action taken. Appropriate corrective action may include, but is not limited to:~~

~~1. Contracting out for the services provided in the program;~~

~~2. Initiating appropriate disciplinary action against all employees whose conduct or performance is deemed to have materially contributed to the program's failure to meet established minimum thresholds;~~

~~3. Redesigning the program; or~~

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832 ~~4. Realigning the program.~~

833
834 ~~The department shall submit an annual report to the President of~~
835 ~~the Senate, the Speaker of the House of Representatives, the~~
836 ~~Minority Leader of each house of the Legislature, the appropriate~~
837 ~~substantive and fiscal committees of each house of the~~
838 ~~Legislature, and the Governor, no later than February 1 of each~~
839 ~~year. The annual report must contain, at a minimum, for each~~
840 ~~specific program component: a comprehensive description of the~~
841 ~~population served by the program; a specific description of the~~
842 ~~services provided by the program; cost; a comparison of~~
843 ~~expenditures to federal and state funding; immediate and long-~~
844 ~~range concerns; and recommendations to maintain, expand, improve,~~
845 ~~modify, or eliminate each program component so that changes in~~
846 ~~services lead to enhancement in program quality. The department~~
847 ~~shall ensure the reliability and validity of the information~~
848 ~~contained in the report.~~

849 (5)~~(6)~~ The department shall collect and analyze available
850 statistical data for the purpose of ongoing evaluation of all
851 programs. The department shall provide the Legislature with
852 necessary information and reports to enable the Legislature to
853 make informed decisions regarding the effectiveness of, and any
854 needed changes in, services, programs, policies, and laws.

855 ~~(7) No later than November 1, 2001, the department shall~~
856 ~~submit a proposal to the Legislature concerning funding~~
857 ~~incentives and disincentives for the department and for providers~~
858 ~~under contract with the department. The recommendations for~~
859 ~~funding incentives and disincentives shall be based upon both~~
860 ~~quality assurance performance and cost effectiveness performance.~~

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~~The proposal should strive to achieve consistency in incentives and disincentives for both department operated and contractor provided programs. The department may include recommendations for the use of liquidated damages in the proposal; however, the department is not presently authorized to contract for liquidated damages in non hardware secure facilities until January 1, 2002.~~

Section 14. Subsections (4) and (5) of section 958.04, Florida Statutes, are amended to read:

958.04 Judicial disposition of youthful offenders.--

(4) Due to severe prison overcrowding, the Legislature declares the construction of a ~~basie~~ basic training and respect program facility is necessary to aid in alleviating an emergency situation.

(5) The department shall provide a special training program for staff selected for the ~~basie~~ basic training and respect program.

Section 15. Section 958.046, Florida Statutes, is amended to read:

958.046 Placement in county-operated ~~boot-camp~~ programs for youthful offenders.--In counties where there are county-operated youthful offender ~~boot-camp~~ programs, other than programs ~~boot camps~~ described in s. 958.04 or s. 985.3091 ~~985.309~~, the court may sentence a youthful offender to such a program ~~boot-camp~~. In county-operated youthful offender ~~boot-camp~~ programs, juvenile offenders shall not be commingled with youthful offenders.

Section 16. Paragraph (i) of subsection (3) of section 985.31, Florida Statutes, is amended to read:

985.31 Serious or habitual juvenile offender.--

(3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND TREATMENT.--

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(i) The treatment and placement recommendations shall be submitted to the court for further action pursuant to this paragraph:

1. If it is recommended that placement in a serious or habitual juvenile offender program or facility is inappropriate, the court shall make an alternative disposition pursuant to s. 985.3091 ~~985.309~~ or other alternative sentencing as applicable, using ~~utilizing~~ the recommendation as a guide.

2. If it is recommended that placement in a serious or habitual juvenile offender program or facility is appropriate, the court may commit the child to the department for placement in the restrictiveness level designated for serious or habitual delinquent children programs.

Section 17. Section 985.314, Florida Statutes, is amended to read:

985.314 Commitment programs for juvenile felony offenders.--

(1) Notwithstanding any other law and regardless of the child's age, a child who is adjudicated delinquent, or for whom adjudication is withheld, for an act that would be a felony if committed by an adult, shall be committed to:

(a) A sheriff's training and respect boot-camp ~~boot-camp~~ program under s. 985.3091 ~~s. 985.309~~ if the child has participated in an early delinquency intervention program as provided in s. 985.305.

(b) A program for serious or habitual juvenile offenders under s. 985.31 or an intensive residential treatment program for offenders less than 13 years of age under s. 985.311, if the child has participated in an early delinquency intervention

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program and has completed a sheriff's training and respect ~~boot~~
~~camp~~ program.

(c) A maximum-risk residential program, if the child has participated in an early delinquency intervention program, has completed a sheriff's training and respect ~~boot-camp~~ program, and has completed a program for serious or habitual juvenile offenders or an intensive residential treatment program for offenders less than 13 years of age. The commitment of a child to a maximum-risk residential program must be for an indeterminate period, but may not exceed the maximum term of imprisonment that an adult may serve for the same offense.

(2) In committing a child to the appropriate program, the court may consider an equivalent program of similar intensity as being comparable to a program required under subsection (1).

Section 18. Paragraph (b) of subsection (4) of section 985.315, Florida Statutes, is amended to read:

985.315 Educational and career-related programs.--

(4)

(b) Evaluations of juvenile educational and career-related programs shall be conducted according to the following guidelines:

1. Systematic evaluations ~~and quality assurance monitoring~~ shall be implemented, in accordance with ss. 985.4056(5)(a) and
~~s. 985.412(1) and 7 (2), and (5)~~, to determine whether the programs are related to successful postrelease adjustments.

2. Operations and policies of the programs shall be reevaluated to determine if they are consistent with their primary objectives.

Section 19. This act shall take effect July 1, 2006.